



**Caltrans Statewide Small Business Council
August 17, 2007 Meeting Minutes**

**Caltrans, Office of Civil Rights
1823 14th Street
Sacramento, CA 95811
Telephone: (916) 324-0449**

Statewide Council Members Present:

Borroel, Diane – SACHCC
Garcia, Rodrigo – SHPE
Guerrero, Paul – CAL SBE
Hou, Jonathan – ABA
Johnson, Bernard – BCA
Keller, Marty – Governor's Office, SB Advocate
LaCome, Diana – NCA
Lau, Eddy – AA&E
Lee, Jeffery "Jackson" – The Bridge
Llewellyn, Rebecca – WCOE
McGlover, Stephan – CACC
Patten, Ezekiel – BBA
Ramirez, Frank – HCA
Watts, Sabrina – for Sam Hassoun
Yang, William – AA&E – SoCal

Caltrans Staff Present:

Kempton, Will – Director
Fonseca, Olivia – Deputy Director, Civil Rights
Blazina, Ann – Civil Rights
Carroll, Patrice – Local Assistance
Carrera, Angel – Civil Rights
Delgado, Marilyn – Civil Rights
Effinger, Robert – Construction Chief
Einhorn, Joanne – District 11 Deputy Director
Gilbert, Dolores – Civil Rights
Harrison, Marcella – Civil Rights
Jackson, Otis – District 7
Louie, Ruby – District 4
Mason, Anne – Civil Rights
Nguyen, Lam – District 11
Padilla, Robert – Civil Rights
Robertson, Deborah – District 7
Sartipi, Bijan – District 4 Director
Smelser, Jan – DPAC

Guests:

Bincon, Chris
Gonzalez, Michael – Assistant SB Advocate
Giordano, Theresa – Executive Director, AEA
Guangelisto, Mark
Johnson, Ricky – RCJ & Associates, Inc.
Padilla, Pat – DBE Consultant, SR 125 Design Bld Project
Payne, Terrence
Price, Michael – Bay Area Concretes, Inc.
Rose, Chantel – GLA
Roessler, Michael – Director of Small Business Program
Operations, California Community Colleges

Guest Speaker:

Mauldin, Tarcey – Senior Deputy, DIR

Welcome/Introductions/Opening Remarks

Chair Fonseca opened the meeting by welcoming guests and attendees. Attendees introduced themselves.

Director Kempton extended his appreciation to all SBC members for their commitment, time, and attendance toward the improvement of the Small Business Program. The Oakland Black Chamber of Commerce hosted an event earlier in the month and there was an impressive participation from Bay Area contractors and construction firms who had the opportunity to interface, an important element for the success of the Small Business Program. Due to the news media of the Minnesota bridges collapsing, Council member Yang asked whether Caltrans has plans for contract opportunities involving the inspections of all bridges in California. Inspections are completed by Caltrans employees every two years. If there are mandates for additional inspections, Caltrans will seek small business participation for bridge inspection contracts. Director Kempton expressed Caltrans' direction toward making sure it is involving small businesses in major construction projects, i.e., the Oakland Maze construction project. He shared that the Department awarded 25.75% of its State funded contracts to small businesses last fiscal year. The Disabled Veteran Business Enterprise goal was not met, we achieved 2.6%. Director Kempton met with the owners for MCM and FCI to maximize small business participation in its contracts. The Legislature has not passed the State budget; Caltrans has over 35,000 unpaid invoices as a result of the impasse. Director Kempton reported for Sam Wallace who is out for a few weeks. Council member Jackson asked for an update on the Tribal Employment Rights Ordinance legal opinion. Chair Fonseca indicated the Office of the Attorney General indicated a response should be out in the fall. Director Kempton added that he will send a letter to the Attorney General requesting an early decision. Council member Patten mentioned the Department of General Services (DGS) has a statewide oil contract that precludes small business participation. He asked if Caltrans would support decentralizing the oil contract. Director Kempton indicated he was in support of involving small businesses where ever possible and supported inviting Director Will Bush, DGS to the next SBC to address this question. Governor's Small Business Advocate, Marty Keller offered to share the oil contract concern with Director Bush with the when he meets with Director Bush. Council member Borroel asked Caltrans to provide procurement opportunities at the National Hispanic Chamber of Commerce conference scheduled for October 2008 in Sacramento. Director Kempton committed to Caltrans attendance at the event.

Sabrina Watts announced that the Associated General Contractor's (AGC) Fall Conference is October 18 – 20, 2007 at Indian Wells. Caltrans and the AGC will sponsor a small business reception.

Chair Fonseca announced that the October meeting will be held in San Diego on October 26th. Early hotel reservations are encouraged to receive the State government rate. Additionally, a tour of District 11's State Route (SR) 125 project is being arranged for October 25th. The District 11 SBC is recognizing a prime contractor at the Breakfast Award. Council member Lau complemented Caltrans for the turn-around and success of the DBE program on the SR 125 project. Council member Ramirez complemented Caltrans for the successful turn out for the mandatory pre-bid on the Maze project.

Chair Fonseca went over the contents of the meeting packet announcing the Statewide Public Participation Forum with the next one to be held Monday, August 20th in Oakland as well as other locations. See handout.

Item # 1: Approval of the July 20, 2007 Statewide SB Council Meeting Minutes

The SBC meeting minutes for July 20 will be presented at the September meeting.

Item #2: Disparity Study Updates

On August 1st Director Kempton made a formal announcement to the Legislature, media, and the small business community that Caltrans received and accepted the Disparity Study. Caltrans submitted a letter to Federal Highway Administration proposing an overall Disadvantaged Business Enterprise (DBE) goal and methodology

based on the Disparity Study. The proposed DBE goal is 13.5%. The Department expects to achieve the goal in equal proportion, 6.75% race conscious and 6.75% race neutral. The Disparity Study did identify disparities for African American, Native American, Asian-Pacific Islander and women. Participants will be asked to comment on the overall DBE goal and methodology used to establish the goal, measures being taken to achieve that goal, the groups identified and the groups who were not identified in the Study. Statewide public participation forums are scheduled statewide to obtain public comments. Council member Lau indicated he was surprised that the State of Washington's DBE goal is higher than California's. Council members Llewellyn, Lau and McGlover responded out of the 18,000 phone calls made to businesses by BBC they were contacted and were impressed with the level of the survey questions. Council member LaCome asked if minority women are included in the women definition. Chair Fonseca responded that the study included minority women in the minority group definition. Pat Padilla commented that women of color should be included in the women as gender definition otherwise Caltrans would violate Title VI. Chair Fonseca indicated this concern will be considered for adjustment to the goal and methodology.

Item # 3: Districts and SR 125

District 3: Chair Fonseca announced that District 3 and Headquarters will host its first Procurement Fair in Sacramento on November 7th at the DGS building. The DGS location will serve as a couple of motivators (1) to motivate DGS to participate with its buyers, and (2) encourage other State departments in the area to observe the success of the Procurement Fairs.

District 4: Director Sartipi reported representatives attended the Oakland Black Board of Trade and Commerce luncheon. Other agencies invited, included the Port of Oakland, City of Oakland, County of Alameda, Alameda County Transportation Improvement Authority (ACTIA), BART and a number of prime contractors. District 4 held the quarterly contractors' outreach forum with 45 people in attendance. District 4 will be hosting its Cal-Mentor A&E meeting on September 24th. On September 17, 2007, the AGC has invited District 4 to address their Public Works Night in San Francisco.

District 7: Reported the progress of the upcoming August 21st Procurement Fair in terms of the expected attendance and registration of 70 to 100 tables for various small business vendors. At this Procurement Fair a Disparity Study forum will be held in the afternoon. District 7 holds its SBC District meeting the second Friday of every month.

District 8: Announced its Inland Empire Procurement Fair in San Bernardino on September 12th and the agenda includes outreach and networking for upcoming bond funded contracts in that area.

District 11: Announced its Cal-Mentor A&E Program is up and running. They have 36 protégés and 17 mentors for A&E contracts matching skills, experience, and need. The May 2007 Procurement Fair in District 11 resulted in over \$700,000. The next District 11 Procurement Fair is scheduled for March 2008.

SR 125: Pat Padilla offered a tour of SR 125 the day before the San Diego statewide SBC meeting. She reported for the Toll Road, they paid \$37 million of which 71% went to DBE's. For the Gap Road, of the \$14 million paid out, 80% or \$11,752,000 went to DBE's. They have been monitoring cancelled checks to insure prompt payments are being made. The Council members praised Chair Fonseca for speaking up two years ago and requiring the SR 125 project to have DBE participation.

Item #4: Statewide Committee Reports

COMMODITIES: Council member McGlover stated that the evaluation of the Procurement Fairs continues. An upcoming meeting in the district will be taking place to look at the process. Council member McGlover commended Caltrans for embracing the Procurement Fairs over the last four years. Director Kempton vetted

his idea to host four (two in the North and two in the South) A&E Fairs. The purposes of the fairs are to provide "look ahead" contract opportunities and ensure prime consultants and small businesses network on the forthcoming opportunities. Caltrans to look at having prime consultants attendance mandatory at these fairs, similar to the mandatory pre-bid attendance for construction contracts. The prime consultants would have to send their project team to the fair to network with the small businesses. In addition, Caltrans will send its proposed contract managers to network with the small businesses as well. See Commodities Action Item listing for updates.

PROFESSIONAL SERVICES: Jan Smelser of DPAC has formed a taskforce and is looking into the insurance requirements for A&E consultants. Council member Lau requested, if Caltrans is not able to award the design software contract to InRoads, then the Committee requests that any future RFP for the software included in the scope of work that the vendor will provide the software free to small businesses or for a substantially reduced price. Director Kempton supports the recommendation and indicated he would be meeting with Rick Land to address the concern. Council member Lau asked that Caltrans look at enforcing prompt payment on A&E contracts. Director indicated he would follow-up with the appropriate Divisions on this. See Professional Services Action Item listing for updates.

SUPPORTIVE SERVICES: Bernard Johnson was appointed as Vice-Chair of the Supportive Services Committee. A list of the statewide Small Business Development Centers was requested. Council member Garcia asked Community Colleges representative Michael Roessler for a project matrix, workplan or performance measures so the Committee could track performance. Council member Garcia indicated the Community Colleges made a recent intent to award announcement of a subcontractor that will assist the eleven SBDCs provide Caltrans construction management and administration technical assistance to small businesses. He voiced his concern that the RFP for the service was poorly written, there was not sufficient time to respond to the RFP and the selection criteria was not shared in advance with the Committee for input. Council member Garcia asked Director Kempton to see if Caltrans could stop the subcontract award process in order for the Committee to provide input into the RFP scope of work, review the selection criteria and be on the selection panel. The Community Colleges intends to award the subcontract on August 28, 2007. Director Kempton indicated he will communicate with Vice-Chancellor, Jose Millan to discuss the Committee's concerns.

CONSTRUCTION: An announcement was made that Angel Carrera will be the Department's representative for the United Way Campaign. Robert Padilla will be staffing the Construction Committee in his absence. New action item is to develop statewide standards for hearing officers. Council member Llewellyn asked Caltrans to provide more CHP vehicle coverage or have Caltrans provide the vehicle coverage. Director Kempton responded that the current fiscal year budget has an allocation to California Highway Patrol to provide more coverage at job sites. Council member Llewellyn asked if Caltrans could equip its vehicles with "blue lights" for better job site safety. Director Kempton responded Caltrans could only use the "yellow light". Director Kempton will check if Caltrans can use local law enforcement to increase job site safety. The Construction Committee has an Action Item requesting that Minor B contracts be opened at the respective Districts. Director Kempton indicated this item needs additional consideration. Council member Guerrero asked that Caltrans insert in the contract specifications for "substitutions" the actual citation of Public Contract Code 4107. Council member Guerrero indicated Director Kempton is hosting a meeting with AGC members and Caltrans employees to address enforcing prompt payment and his recommendation to require the prime to prepare monthly prompt payment certifications. See Construction Action Item listing for updates.

LEGISLATIVE: Council member Guerrero reported on Assembly Bill (AB) 761 (Coto), which would codify the Small Business goal of 25%. Small, minority, and women businesses oppose the current Design Build legislative language. The bill needs to include the language, requiring primes to list their subcontractors at time of award. Council member Guerrero will provide Director Kempton with suggested legislative language.

EXECUTIVE: Director Kempton met with the executive committee group prior to the SBC meeting. Action items were presented during the SBC meeting for each Committees update. See Executive Committee Action Item listing for updates.

Item #5: Special Presentation: “Underground Economy and Prevailing Wage Enforcement Issues

The guest speaker was Tracey Mauldin, Senior Deputy, Department of Industrial Relations. Her presentation covered underground economy and prevailing wage enforcement issues. Handouts included:

- Labor Code Section 1720-1743
- The Laws Relating to the Time, Manner and Payment of Wages
- Official Notice – Industrial Welfare Commission, Order No. 4-2001, Regulating Wages, Hours and Working Conditions in the Professional, Technical, Clerical, Mechanical and Similar Occupations (Effective January 1, 2001 as amended)
- Official Notice – Industrial Welfare Commission, Order No.16-2001, Regulating Wages, Hours and Working Conditions for Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries (Effective January 1, 2001 as amended)
- California Department of Industrial Relations, Division of Labor Statistics and Research, and Division of Labor Standards Enforcement web pages and their information.

Ms. Maudling will provide: 1) the website link to obtain the list of debarred firms, 2) the link for the employee contact list to call for assistance, and 3) an organization chart of where to file wage and hour complaints. Chair Fonseca invited Ms. Mauldin to attend a future statewide SBC meeting, where she can continue to address questions and future discussion.

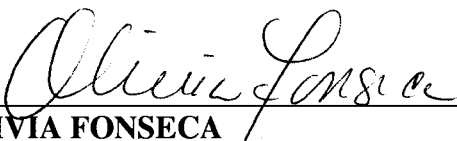
ITEM #5: Public Comment/Good of the Order

Council member Keller stated he would look into the AB 761. He announced he will meet with the statewide SB advocates the first part of September to share procurement best practices and performance measures.

Next Meeting:

The next Statewide SBC meeting will be on Friday, September 21, 2007, 1823 14th Street, Sacramento, California, 2nd Floor, Room 207.

Approved by:



OLIVIA FONSECA
Deputy Director, Civil Rights
California Department of Transportation